

87<sup>th</sup> Legislative Session – 2012

Committee: Senate State Affairs

Friday, February 10, 2012

P - Present  
E - Excused  
A - Absent

Roll Call

P Adelstein  
P Cutler  
P Frerichs  
P Gray  
P Johnston  
P Rave  
P Tieszen  
P Olson (Russell), Vice-Chair  
P Rhoden, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Larry Rhoden, Chair.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 8, 2012

Moved by: Tieszen  
Second by: Cutler  
Action: Prevailed by voice vote.

MOTION: CONFIRM REAPPOINTMENT OF DENNIS NEUGEBAUER OF MINNEHAHA COUNTY, SIOUX FALLS, SOUTH DAKOTA, TO THE SOUTH DAKOTA BUILDING AUTHORITY

Moved by: Gray  
Second by: Rave  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Rave, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs

MOTION: PLACE THE REAPPOINTMENT OF DENNIS NEUGEBAUER, MINNEHAHA COUNTY, SIOUX FALLS, SOUTH DAKOTA, TO THE SOUTH DAKOTA BUILDING AUTHORITY ON THE CONSENT CALENDAR

Moved by: Rave  
Second by: Johnston  
Action: Prevailed by voice vote.

MOTION: CONFIRM APPOINTMENT OF DOUGLAS J. HAJEK OF MINNEHAHA COUNTY, SIOUX FALLS, SOUTH DAKOTA, TO THE SOUTH DAKOTA BUILDING AUTHORITY

Moved by: Rave  
Second by: Cutler  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Rave, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs

MOTION: PLACE THE APPOINTMENT OF DOUGLAS J. HAJEK, MINNEHAHA COUNTY, SIOUX FALLS, SOUTH DAKOTA TO THE SOUTH DAKOTA BUILDING AUTHORITY ON THE CONSENT CALENDAR

Moved by: Johnston  
Second by: Tieszen  
Action: Prevailed by voice vote.

SB 187: reformulate the legislative agency review with an independent performance audit.

Presented by: Senator Bob Gray

MOTION: AMEND SB 187

187ob

On page 1, after line 7 of the printed bill, insert:

" Section. 2. That § 1-26E-1 be repealed.

~~—1-26E-1. For the purposes of §§ 1-26E-1 to 1-26E-8, inclusive, the term, state agency, means any department, division, office, commission, board, or any other unit of state government. The term does not include any local unit of government.~~

Section 3. That § 1-26E-2 be repealed.

~~—1-26E-2. The Executive Board of the Legislative Research Council shall establish and appoint the members of one or more interim committees each year to review one or more state agencies. The executive board shall establish a schedule whereby each state agency is reviewed by an interim committee once every ten years.~~

Section 4. That § 1-26E-3 be repealed.

~~—1-26E-3. Any committee appointed pursuant to §§ 1-26E-1 to 1-26E-8, inclusive, shall implement the procedures of §§ 1-26E-1 to 1-26E-8, inclusive, and may establish its own procedures for the review and evaluation required by §§ 1-26E-1 to 1-26E-8, inclusive.~~

Section 5. That § 1-26E-4 be repealed.

~~—1-26E-4. Each committee shall hold public hearings and receive testimony from the public and all interested parties. The state agency under review shall bear the burden of establishing that sufficient public need is present to justify its continued existence. The state agency under review shall provide the committee with the following information:~~

- ~~—(1) The identity of all offices under the direct or advisory control of the state agency;~~
- ~~—(2) All powers, duties, and functions currently performed by the state agency;~~
- ~~—(3) All constitutional, statutory, or other authority under which the powers, duties, and functions of the state agency are carried out;~~
- ~~—(4) Any powers, duties, or functions which the state agency is performing and which is duplicated by another state agency within the state including the manner in which, and the extent to which, the duplication of effort is occurring and any recommendations as to eliminating the duplications;~~
- ~~—(5) Any powers, duties, or functions which are inconsistent with current and projected public needs and which should be terminated or altered; and~~
- ~~—(6) Any other information which the committee feels is necessary and proper to carry out its review and evaluative duties.~~

Section 6. That § 1-26E-5 be repealed.

~~—1-26E-5. To determine whether a sufficient public need for continuing the state agency is present, a committee shall take into consideration the following factors concerning the state agency:~~

- ~~— (1) — The extent to which any information required to be furnished to the reviewing committee pursuant to § 1-26E-4 has been omitted, misstated, or refused, and the extent to which conclusions reasonably drawn from the information are adverse to the legislative intent inherent in the powers, duties, and functions as established in the enabling legislation creating the state agency, or is inconsistent with present or projected public demands or needs;~~
- ~~— (2) — The extent to which statutory changes have been recommended which would benefit the public in general as opposed to benefiting the state agency;~~
- ~~— (3) — The extent to which the operation of the state agency has been efficient and responsive to the public needs;~~
- ~~— (4) — The extent to which the state agency has encouraged the persons regulated to report to it concerning the impact of its rules and decisions regarding improved services, economy of service, or availability of service to the public;~~
- ~~— (5) — The extent to which the public has been encouraged to participate in rule and decision making as opposed to participation solely by persons regulated;~~
- ~~— (6) — The extent to which complaints have been expeditiously processed to completion in the public interest; and~~
- ~~— (7) — Any other relevant criteria which the committee deems necessary and proper in reviewing and evaluating the sufficient public need for continuance of the state agency.~~

Section 7. That § 1-26E-6 be repealed.

~~— 1-26E-6. The Department of Legislative Audit shall furnish, upon request of a committee, any relevant information including the reports of audits of the state agency under review.~~

Section 8. That § 1-26E-7 be repealed.

~~— 1-26E-7. Each committee shall submit reports recommending either the continuation, revision, or termination of the state agency under review to the Executive Board of the Legislative Research Council for distribution to legislators and the Governor before the first legislative day of the ensuing regular legislative session.~~

Section 9. That § 1-26E-8 be repealed.

~~— 1-26E-8. Each committee shall submit its recommendations concerning the state agency and laws that it believes should be repealed or revised to the Legislature in one or more bills."~~

Moved by: Johnston  
Second by: Cutler  
Action: Prevailed by voice vote.

MOTION: DO PASS SB 187 AS AMENDED

Moved by: Gray  
Second by: Adelstein  
Action: Prevailed by roll call vote. (7-0-2-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs, Rave

MOTION: AMEND TITLE OF SB 187

187otb

On page 1, line 2, of the printed bill, after "audit" and insert "and to repeal certain provisions regarding the legislative review of state agencies".

Moved by: Gray  
Second by: Johnston  
Action: Prevailed by voice vote.

SB 190: permit the filing of certain agricultural lien documents with the Office of the Secretary of State by electronic means.

Presented by: Senator Timothy Rave

MOTION: TO TABLE SB 190

Moved by: Adelstein  
Second by: Rave  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Rave, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs

HB 1028: revise certain provisions relating to state employees and to the administration of state personnel matters.

Presented by: Jeff Bloomberg, Bureau of Personnel (Handout: 1)

MOTION: DO PASS HB 1028

Moved by: Gray  
Second by: Tieszen  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Rave, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs

MOTION: PLACE HB 1028 ON CONSENT CALENDAR

Moved by: Rave  
Second by: Adelstein  
Action: Prevailed by voice vote.

HB 1044: repeal certain statutes relating to the Bureau of Intergovernmental Relations.

Presented by: Liza Clark, Bureau of Finance and Management

MOTION: DO PASS HB 1044

Moved by: Adelstein  
Second by: Johnston  
Action: Prevailed by roll call vote. (7-0-2-0)

Voting Yes: Adelstein, Cutler, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Frerichs, Rave

MOTION: PLACE HB 1044 ON CONSENT CALENDAR

Moved by: Johnston  
Second by: Tieszen  
Action: Prevailed by voice vote.

SB 182: revise certain provisions concerning tax incremental districts.

Presented by: Senator Stanford Adelstein

MOTION: REMOVE SB 182 FROM THE TABLE

Moved by: Adelstein  
Second by: Cutler  
Action: Prevailed by roll call vote. (6-1-2-0)

Voting Yes: Adelstein, Cutler, Gray, Tieszen, Olson (Russell), Rhoden

Voting No: Johnston

Excused: Frerichs, Rave

THE CHAIR DEFERRED SB 182 UNTIL MONDAY, FEBRUARY 13, 2012

SB 179: authorize the South Dakota Energy Infrastructure Authority to make certain loans for certain energy development facilities and to provide appropriations therefor.

Presented by: Senator Larry Rhoden

MOTION: DEFER SB 179 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Cutler  
Second by: Gray  
Action: Prevailed by roll call vote. (7-0-2-0)

Voting Yes: Adelstein, Cutler, Frerichs, Gray, Tieszen, Olson (Russell), Rhoden

Excused: Johnston, Rave

HB 1119: revise certain provisions concerning mechanical pull-tab devices.

Presented by: Representative Roger Solum (Handouts: 2, 3)

MOTION: DO PASS HB 1119

Moved by: Frerichs  
Second by: Cutler  
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Adelstein, Cutler, Frerichs, Gray, Johnston, Rave, Tieszen, Olson (Russell), Rhoden

MOTION: ADJOURN

Moved by: Cutler  
Second by: Adelstein  
Action: Prevailed by voice vote.

Kay Johnson  
Committee Secretary

---

Larry Rhoden, Chair